

Office Action Summary	Application No. 10/507,319	Applicant(s) CUNNINGHAM ET AL.	
	Examiner SHANTESE MCDONALD	Art Unit 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 27 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1,2,9-14 and 18-25 is/are rejected.
- 7) ☐ Claim(s) 3-8,15-17 and 26-28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
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| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. <u>10/24/08</u> . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,9-12 and 18-21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reiling in view of JP08-240329.

Reiling teaches a vacuum cleaner suction device for use in a central vacuuming cleaning apparatus comprising a casing, 20, defining a substantially cylindrical cavity, the casing having first and second opposing ends and a first axis, the first end having an intake and the second end having an exhaust, (col. 2 lines 28-48), a motor, 10, contained within the cavity having an impeller, wherein rotation of the impeller in a first direction causes air to be drawn through the intake and expelled through the exhaust, (col. 3, line 72- col. 4, line 3). Reiling also teaches that the impeller is a plurality of sets of centrifugal fan blades, 30, 36, spaced equally about the rotor in an arc perpendicular to the first and second axes, the impeller being mounted between the rotor and the casing, (col. 2, lines 49-61, fig. 3), and the device being mounted to a wall, (col. 4 lines 51-64). Reiling teaches all the limitations of the claims except for the motor being a DC brushless motor having a stator mounted to a shaft and the motor having a substantially cylindrical rotor mounted for rotation about the shaft, the shaft having a second axis and

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the shaft being mounted within the casing so as to be non-rotatable with respect to the casing, with the first and second axes being aligned, the impeller mounted to the rotor so as to rotate with the rotor, the impeller being a squirrel cage fan, the casing having a diameter less than the depth of a wall stud of a conventionally framed structure, the diameter being or 5 and 1/2 inches or less, and 3 and 1/2 inches or less, and the device being mounted within a wall cavity between wall studs of conventionally framed house. JP08-240329 teaches a DC brushless motor having a stator, 7,8,9, mounted to a shaft, 3, the shaft being mounted within the casing so as to be non-rotatable with respect to the casing, and the motor having a substantially cylindrical rotor, 22, mounted for rotation about the shaft, the shaft having a second axis and the shaft being fixedly mounted within the casing with the first and second axes being aligned, the impeller, 21, fixedly mounted for rotation with the rotor. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the tool of Reiling, with a motor, as taught by JP08-240329, as an alternative mode to power the suction device. It would have been further obvious to provide the tool of Reiling with the impeller being a squirrel cage fan, the casing having a diameter less than the depth of a wall stud of a conventionally framed structure, the diameter being or 5 and 1/2 inches or less, and 3 and 1/2 inches or less, and the device being mounted within a wall cavity between wall studs of conventionally framed house, as a matter of obvious design choice.

Claims 13,14,22,24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reiling as modified by JP08-240329 in further view of Stephens et al.

Reiling as modified by JP08-240329 teaches all the limitations of the claims except for the cleaning system being an upright vacuum cleaner, a filter being located between the intake and the air delivery apparatus and a particle receptacle between the filter and the air delivery system. Stephens et al. teaches the cleaning system being an upright vacuum cleaner. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the motor of Reiling as modified by JP08-240329, as an alternate power mode. It would have been further obvious to provide the tool of Reiling as modified by JP08-240329 with a filter, 34, being located between the intake and the air delivery apparatus and a particle receptacle, 38, between the filter and the air delivery system. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the tool of Reiling as modified by Syverson with a filter and particle receptacle, as taught by Stephens, to prevent particles from entering the air intake.

Allowable Subject Matter

Claims 3-8,15-17 and 26-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1,2,9-14 and 18-25 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHANTESE MCDONALD whose telephone number is (571)272-4486. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

S.L.M.
February 9, 2009

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/Joseph J. Hail, III/

Supervisory Patent Examiner, Art Unit 3723